

SOAH DOCKET NO. 701-13-5421.EC

TEXAS EDUCATION AGENCY,
EDUCATOR LEADERSHIP AND
QUALITY DIVISION,
Petitioner

v.

GERALD OWEN YOUNG,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

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PROPOSAL FOR DECISION

Staff of the Texas Education Agency (TEA), Educator Leadership and Quality Division, acting on behalf of the State Board for Educator Certification (SBEC),¹ seeks to take disciplinary action against the Texas Educator Certificate (teaching certificate) of Gerald Owen Young (Respondent) based on allegations that he engaged in inappropriate conduct with a male student and possessed pornographic images on his school-issued laptop computer. Respondent asserts that he did not intend to be inappropriate with the student at issue and did not realize that the pornographic images could be stored on his work computer. Respondent seeks to retain his teaching certificate. After considering the evidence, legal authority, and arguments of counsel, the Administrative Law Judge (ALJ) finds that Staff proved the allegations against Respondent and, based on the applicable law, recommends that Respondent's teaching certificate be permanently revoked.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no disputed issues of notice or jurisdiction. Therefore, those matters are addressed in the findings of fact and conclusions of law without further discussion here.

The hearing convened and concluded on February 10, 2014, before ALJ Ami L. Larson at the State Office of Administrative Hearings (SOAH) in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by attorney Richard J. Ybarra. Respondent appeared and was represented by attorney Kevin Lungwitz. The record closed at the conclusion of the hearing that day.

¹ TEA provides SBEC's administrative functions and services. Tex. Educ. Code § 21.035.

II. ALLEGATIONS AND APPLICABLE LAW

SBEC regulates all aspects of the certification and standards of conduct of public school teachers,² and is authorized to adopt rules as necessary to provide for disciplinary proceedings.³ Based on its statutory authority, SBEC has adopted rules allowing it to impose the following forms of discipline against an educator who is found to have committed a sanctionable violation:

- place restrictions on the issuance, renewal, or holding of a certificate, either indefinitely or for a set term;
- issue an inscribed or non-inscribed reprimand;
- suspend a certificate for a set term or issue a probated suspension for a set term;
- revoke or cancel, which includes accepting the surrender of, a certificate without opportunity for reapplication for a set term or permanently; or
- impose any additional conditions or restrictions upon a certificate that the SBEC deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials.⁴

SBEC may take any of the above-described disciplinary actions against an educator who has violated the Educators' Code of Ethics (Code of Ethics).⁵ In this case, Staff alleges that Respondent's behavior violated the following provisions of the Code of Ethics:

- Standard 1.7, which requires educators to comply with state regulations, written local school board policies, and other state and federal laws;⁶
- Standard 1.10, which requires educators to be of good moral character and worthy to instruct or supervise the youth of the state;⁷
- Standard 3.2, which prohibits educators from intentionally, knowingly, or recklessly treating a student or minor in a manner that adversely affects or

² Tex. Educ. Code § 21.031(a).

³ Tex. Educ. Code § 21.041.

⁴ 19 Tex. Admin. Code (TAC) § 249.15(a).

⁵ 19 TAC § 249.15(b)(3).

⁶ 19 TAC § 247.2(1)(G).

⁷ 19 TAC § 247.2(1)(J).

endangers the learning, physical health, mental health, or safety of the student or minor;⁸

- Standard 3.6, which prohibits educators from soliciting or engaging in sexual conduct or a romantic relationship with a student or minor;⁹
- Standard 3.8, which requires educators to maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard;¹⁰ and
- Standard 3.9, which requires educators to refrain from inappropriate communication with a student or minor, including but not limited to, electronic communication such as text messaging.¹¹

Additionally, Staff alleges that Respondent is subject to disciplinary action because his conduct indicates that he is unworthy to instruct or supervise the youth of this state,¹² and because his conduct involved soliciting or engaging in sexual conduct or a romantic relationship with a student.¹³

The following factors may be taken into consideration in determining the appropriate discipline to be imposed against a person who has been found to have committed one or more sanctionable violations: (1) the seriousness of the violation; (2) whether the misconduct was premeditated or intentional; (3) attempted concealment of misconduct; (4) prior misconduct; (5) whether the sanction will deter future violations; and (6) any other relevant circumstances or facts.¹⁴

Notwithstanding the above-noted factors, however, SBEC is required to permanently revoke the teaching certificate of an educator if, after a contested case hearing, it is determined

⁸ 19 TAC § 247.2(3)(B).

⁹ 19 TAC § 247.2(3)(F).

¹⁰ 19 TAC § 247.2(3)(H).

¹¹ 19 TAC § 247.2(3)(I). The Code of Ethics sets forth factors to use in determining whether a communication is inappropriate, including: 1) the nature, purpose, timing, and amount of the communication; 2) the subject matter of the communication; 3) whether the communication was made openly or the educator attempted to conceal the communication; 4) whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; 5) whether the communication was sexually explicit; and 6) whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or student.

¹² 19 TAC § 249.15(b)(2).

¹³ 19 TAC §§ 249.14(h)(1)(L), 249.15(b)(9)(L).

¹⁴ 19 TAC § 249.17(c).

that the educator: 1) engaged in or solicited any sexual contact or a romantic relationship with a student or minor, or 2) possessed or distributed child pornography.¹⁵

The applicable rules define “solicitation of a romantic relationship” as:

Deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or by patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance.¹⁶

Certain acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student. Those acts include:

- Behavior, gestures, expressions, or communications with a student that are unrelated to the educator’s job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction;¹⁷
- Making inappropriate comments about a student’s body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images;¹⁸
- Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party;¹⁹
- Inappropriate hugging, kissing, or excessive touching;²⁰
- Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage;²¹ and
- Any other acts tending to show that the educator solicited a romantic relationship with the student.²²

¹⁵ 19 TAC § 249.17(d)(1), (2). Because there is no evidence to establish that any of the images on Respondent’s school-issued computer constituted child pornography, that issue is not addressed here.

¹⁶ 19 TAC § 249.3(50).

¹⁷ 19 TAC § 249.3(50)(A).

¹⁸ 19 TAC § 249.3(50)(B).

¹⁹ 19 TAC § 249.3(50)(G).

²⁰ 19 TAC § 249.3(50)(H).

²¹ 19 TAC § 249.3(50)(J).

²² 19 TAC § 249.3(50)(K).

III. SUMMARY OF RELEVANT EVIDENCE

At the hearing, Staff called Respondent as a witness and also presented testimony from the following witnesses:

- Student One,²³ the student involved in Respondent's alleged solicitation of a romantic relationship and failure to maintain appropriate boundaries;
- Rick Ray McDaniel, the principal of McKinney Boyd High School (McKinney Boyd) during the relevant time period;
- Jeff Gilliam, the Director of Technology Operations at McKinney Boyd;
- Vicki Elaine Kirkley, Theater Director and Respondent's supervisor at McKinney Boyd; and
- A.S.,²⁴ mother of Student One.

Staff also offered multiple exhibits, nine of which were admitted into evidence.

Respondent testified on his own behalf and presented the testimony of Lisa Martin, under whom he completed his student teaching. He also offered three exhibits that were admitted into evidence.

A. Undisputed Background Facts

Respondent currently holds a teaching certificate that was issued by SBEC in 2011. He began working as a drama teacher at McKinney Boyd in August 2011. Student One was a student in Respondent's theater class during the spring of 2012. During the fall term of 2012, Student One did not take any classes taught by Respondent, but he and Respondent maintained regular contact. In late November 2012, Student One's parents discovered a text message exchange that had taken place between Student One and Respondent. Student One's parents believed the text message exchange was inappropriate, and they reported it to Mr. McDaniel, the school principal. On November 27, 2012, Mr. McDaniel met with Respondent and asked him about his behavior with Student One. Respondent resigned his position at McKinney Boyd at that time. After

²³ "Student One" is used instead of the student's name to protect his confidentiality because he was a minor at the time the events at issue occurred.

²⁴ Initials are used to protect the identity of Student One.

Respondent resigned, his school-issued laptop computer was found to contain various pornographic images, including at least one video of Respondent engaging in a sexual act.²⁵

B. Student One

Student One testified that he developed a close relationship with Respondent during the spring of 2012, when he was a student in Respondent's Theater 2 class. At that time, Respondent was the Assistant Theater Director and also taught the Theater 2 class at McKinney Boyd. Student One continued his relationship with Respondent during the fall of 2012, even though Vicki Kirkley, not Respondent, was his theater teacher during that time.

During the fall term of 2012, Student One frequently skipped classes to spend time with Respondent, and they became even closer as they spent more time together. They discussed various things, such as Student One's girlfriends, potential careers, drugs, and various activities related to the theater department. Student One testified that he considered Respondent to be his friend. He noted that he discussed his girlfriend with both Respondent and Ms. Kirkley, and stated that Ms. Kirkley kept her relationship with Student One "pretty professional."

According to Student One, many of his conversations with Respondent had sexual overtones, although Respondent "never specified specifically what he was talking about." At one point, for example, when Student One told Respondent he was considering the possibility of going to nursing school, Respondent said that he could get Student One into school and be his "sugar daddy." Respondent further said something about how little he would ask of Student One, and how much Student One would get in return. In a different conversation, Respondent stated that it would be a different story once Student One graduated.

According to Student One, Respondent regularly told him that he should break up with his girlfriend, and once said that it would pave the way for Respondent and Student One to be together. When Student One asked Respondent what he thought of "D," a girl he was interested

²⁵ Copies of the images found on Respondent's school-issued laptop computer were admitted into evidence on a portable thumb drive as TEA Ex. 6. No dispute was raised about the pornographic nature of the images found, or the fact that at least one of the videos portrayed Respondent engaging in a sexual act. There was no allegation made or evidence to establish that any of the images on Respondent's computer consisted of child pornography. Accordingly, there appears to be no need for the ALJ to view the images contained on TEA Ex. 6, and she did not do so.

in dating, Respondent said he did not like her because he wanted Student One to be his. Respondent once told Student One that he smelled good. On another occasion, after Student One had tightened his belt, causing a bulge in the front of his pants, Respondent asked Student One “are you happy to see me?” Respondent also told him about an occasion when he had “tripped” on acid.

Respondent and Student One also discussed being gay on multiple occasions. According to Student One, although Respondent never specifically acknowledged being gay, all the theater students believed that he was. And even though Respondent knew that Student One had a girlfriend, Respondent nonetheless believed that Student One was gay. Several times, Respondent told Student One that he (Student One) was gay. Sometimes he said it playfully, and other times he seemed serious. Student One testified that once, when he and Respondent were talking about Student One’s being gay, Ms. Kirkley told them their conversation was inappropriate and they needed to change the subject. At that point, Respondent and Student One began to discuss celebrities who were married but turned out to be gay.

Student One testified that he regularly had physical contact with Respondent, consisting of hugs, horseplay, and massages. He described Respondent as “a big teddy bear” and noted that he was very physical and “hands-on” with his students. Student One testified that he hugged Respondent a lot, and Respondent never told him not to. According to Student One, theater students tended to be more “touchy-feely” than students in other classes. Hugs were normal in the theater department, he explained.

He also stated that he gave Respondent “massages” once a week or more, and that Respondent once gave him a massage. Student One recounted that on one occasion he had been joking with another student about which of them gave the best massages, and Respondent suggested having a massage competition. Both Student One and the other student gave Respondent massages on that occasion. Sometimes Respondent said that Student One’s massages felt good, and other times he told Student One where he was sore and it would feel good to be massaged. Student One testified that he never massaged Respondent below his shoulders. Student One further testified that he and Respondent engaged in horseplay, such as grabbing each other’s nipples.

Student One testified that he had an application (app) on his cell phone called “phone safe” that protected certain information from being accessed without first entering a password. According to Student One, when Respondent saw that he had the phone safe app, he asked Student One for the password because Respondent thought there were risqué photos of Student One on the phone and Respondent wanted to see them. Student One told Respondent repeatedly that he only had photos of his girlfriend on his phone, but Respondent did not believe him and kept asking Student One why he would not show the photos to Respondent. According to Student One, Respondent asked, on an ongoing basis, to see the photos on Student One’s phone despite Student One’s repeated denials that there were any scandalous photos of him on the phone.²⁶

According to Student One, the theater directors generally distributed their cell phone numbers for students to use in case they got separated during field trips. Student One testified about a text message exchange he had with Respondent on November 24 and 25, 2012. The content of the messages is quoted below:

Student One: “So ‘C’ and I finally broke up”

Respondent: “I’m sorry!! Are you okay”

Student One: “Yeah I’m great, it was hard doing the actual deed but I’m fine, know I did the right thing, and ready to move on to the next fish”

Respondent: “Lol. Perhaps you should be single a while and enjoy that. You have lots of time to find the right one.”

Student One: “Exactly! See u tomorrow!?”

Respondent: “Yes. The. We r gone we-end of week in Houston”

Student One: “Alone for ever! U guys or the theater department?”

Respondent: “Theater dept. we will all be gone to Houston.”

Student One: “Its?”

Respondent: “ITS Yes.”

²⁶ Student One acknowledged that he had had some modeling photos taken, including a photo of his head and a photo of him on the beach without a shirt. He testified that he gave Respondent a copy of the head shot, and he denied ever having shown any risqué photos of himself to Respondent from his phone.

Student One: “Alright”

Respondent: “So single now means pics? Hahaha. Couldn’t resist. Sorry! :)”

Student One: “Pics for d [girl’s name] yes! Ha ha ha ha ha and ur fine!”

Respondent: “D [Girl’s name]?! Really?!”

Student One: “I told u that!”

Respondent: “And yours interest me more :P”

Student One: “Wait what?”

Respondent: “Lol. That’ll keep you gussing huh?!”

Student One: “I didn’t understand u so yes yes I will”

Respondent: “I said yours (pics)”

Student One: “Yes are being sent to her”

Respondent: “Not me? :(”

Student One: “Ha ha”

Respondent: “Give me something here . . . Lol”

Student One: “Sure u have my love”

Respondent: “Show me. Hahaha”

Student One: “I do I give u massages and hugs all the time!”

Respondent: “Lol. True. True. But something to remember you with while I’m away. Lol”

Student One: “Ha ha”

Student One testified that he believed Respondent was asking him to send the photos of himself without clothes that Respondent believed were in Student One’s phone safe. He testified that he generally tried to let such conversations “roll off his shoulders,” but when Respondent sent the text message telling him to show him that he had Student One’s love, it seemed to Student One as if nothing between them mattered to Respondent unless he showed Respondent the photos. Student One stated that made him feel “not very good.”

C. Respondent

Respondent graduated from Denton High School in 1990, at which time he began taking classes at the University of North Texas. After two years, he left school and worked as a graphic designer and actor for many years. In 2005, he decided to return to school to obtain his degree in teaching. He elected to attend Texas Woman's University because of their drama department. Respondent completed his student teaching before he graduated in 2011, and got his teaching certificate at that time. In the fall of 2011, Respondent began teaching at McKinney Boyd. He testified that he developed personal relationships with each of his students pursuant to the school's policy. His relationship with Student One, he stated, was not any closer than his relationship with other students, although Student One came to see Respondent more than other students did. According to Respondent, Student One often talked about his girlfriend, but he denied giving Student One advice in that area other than when he broke up with his girlfriend. Generally, Respondent testified, he just listened to what Student One had to say without mentoring or giving advice about personal issues.

Respondent acknowledged that Student One probably spoke to him about the possibility of breaking up with his girlfriend. He denied, however, telling Student One that breaking up with his girlfriend would pave the way for Respondent to be with him, or telling Student One that he did not approve of "D," the girl he said he was considering dating next.

Respondent acknowledged that, in the context of a conversation with Student One about nursing school, he said he would be Student One's "sugar daddy" and told Student One that he would not want for anything. He testified, however, that he was only joking and was simply offering to help Student One get admitted to his *alma mater* as a way to encourage Student One to attend a four-year, rather than a two-year, college. Respondent explained that all he meant by the "sugar daddy" comment was that he and his wife had money and would be willing to help Student One out.

Respondent did not recall telling Student One that he would be surprised about how little Respondent asked and how much he gave in return. He went on to state that he did not mean for his remarks to be sexual but was simply trying to let Student One know that Respondent would be there for him if he decided to go to nursing school and needed anything, such as dinner with

Respondent and his wife. Respondent claimed to have had those kinds of conversations with other students as well, including two girls and several other boys.

Respondent acknowledged that he probably told Student One that he smelled good. He explained that he had undergone “nose surgery” and consequently had an excellent sense of smell. He often bought his wife perfume based on scents he noticed teachers and students wearing. He denied, however, having made any comments about a bulge in Student One’s pants, or generally conversing with Student One as he would with a contemporary.

Respondent denied ever telling Student One that he was gay, or ever saying that Student One was gay. Respondent testified that he was married during that time, and talked about his wife often with all of his students. He also testified that there were several openly gay students in his class and he would not have had such discussions. He speculated that perhaps Student One mistakenly thought Respondent talked to him about being gay when really it was other students discussing that issue while Respondent was present. Respondent acknowledged having discussed “macho” v. effeminate men with Student One, but denied ever telling Student One that he could still be gay even if he had a girlfriend. Respondent also denied having had a conversation with Student One about gay celebrities who were married, and he denied that Ms. Kirkley ever stopped a conversation between him and Student One on that topic. He acknowledged, however, that Ms. Kirkley told him to stop conversations with other students on a couple of occasions, and that she mentored and counseled Respondent several times about appropriate and inappropriate boundaries with students.

According to Respondent, one of the theater class exercises involved all of the students standing in a circle and massaging the shoulders of the student in front of them. Respondent stated that he would demonstrate the exercise for the students, and he explained that the purpose of the exercise was to relieve stress and loosen the body in order to perform.

Respondent also testified that Student One gave him massages on occasion. However, he clarified, they were not really massages, but were more like shoulder rubs. It was common for students to give him shoulder rubs, he stated. But he would ask anyone who lingered too long to stop. He testified that he had asked Student One to stop massaging him before and Student One had complied. According to his testimony, Respondent could think of only two times when he

gave a massage to Student One. And he did not recall ever asking Student One for a massage, although he noted that he sometimes joked about how his neck hurt and a massage would feel good. However, he stated, no students massaged him in response to those comments.

At one point, Respondent recalled, Student One and two other students approached him and Ms. Kirkley, wanting to know which of the three gave the best massages. Respondent testified that he and Ms. Kirkley did not allow the students to massage them.

Respondent opined that he did not believe it was inappropriate for him to touch the shoulders of a student. He explained that theater classes are different from other types of classes because the students are together for longer periods of time, and much of what is done in theater class focuses on training the body, voice, and mind. Respondent asserted that bonds are closer between theater students, and he noted that it was common for the students to grab his shoulders as they came into class and ask him how he was doing. Respondent stated that he, too, would often rub a student's shoulders and tell them they were doing a good job, instead of shaking their hands, which would require them to stop what they were doing.

With respect to horseplay, Respondent noted that there are a multitude of theater games that would be considered horseplay. He explained that the class in which he taught Student One was held after lunch when the students were rowdy and full of excess energy. Once, he said, Student One came up to him and grabbed his nipples and pinched them. Respondent stated that he reacted by putting his hands in the air and denied having pinched Student One's nipples.

Respondent also stated that hugging was common among theater students, and many of the students, including Student One, would hug him. According to Respondent, Student One did not hug him more than other students did. He noted that there were also class exercises that involved hugging each other.

With respect to the photos on Student One's phone, Respondent asserted that he had not been familiar with the phone safe app until Student One showed it to him. At one point, Respondent recalled, Student One was showing Respondent some family photos he had on his phone and, at a certain point, Student One took the phone abruptly and said "that's enough." Respondent assumed Student One had photos on his phone that he did not want Respondent to

see. Respondent told Student One, "Please tell me you don't have any of those pictures on your phone." Respondent explained that at the beginning of the fall 2012 term, a female student had texted nude photos of herself to her boyfriend, who then sent them to the entire football team. When he told Student One he hoped he did not have any of those photos on his phone, he was referring to that incident. And after that, Respondent joked with Student One about wanting to see the photos on his phone.

Respondent admitted that he was still learning about boundaries and stated that it can be difficult for a new teacher to discern the line between appropriate and inappropriate boundaries with students. He acknowledged that Ms. Kirkley regularly mentored him about boundary issues generally, including the proper use of cell phones with students. According to Respondent, her mentoring occurred "all the time" but it was about situations that might come up, before a situation actually arose. Respondent was able to recall one instance when three of his students called him from a fast food restaurant at 2:00 a.m. and asked him to join them. Ms. Kirkley warned Respondent to stop that kind of phone use immediately or it could get out of hand.

Respondent acknowledged that he engaged in the text message exchange with Student One on November 24 and 25, 2012, as set forth above.²⁷ The messages were sent on a Saturday night and Sunday while Respondent was out of town in New York. Initially, Respondent testified, he texted Student One back to make sure he was okay after he broke up with his girlfriend. The text messages then became just banter and joking around, he stated. Respondent testified that he thought he and Student One were just "ribbing" each other because of the way they had bantered all year about the photos on Student One's phone. He did not think Student One really believed Respondent wanted a picture of him. "It was never even on my radar that there was an issue during that time," Respondent testified. He explained that he always let his students know they had his love, and he was only joking when he asked Student One to send photos to demonstrate that he loved Respondent. Respondent reiterated that he was never serious about wanting to see photos of Student One. In fact, he testified, it would have been inappropriate if Student One had sent him any suggestive photos. Respondent conceded,

²⁷ Respondent testified that the text messages quoted above do not reflect the entirety of the text messages sent and received, but he did not indicate anything about the substance of any additional messages that may have existed or whether would they change the meaning of the quoted messages.

however, that there was no educational purpose for those text messages, and that it was inappropriate for him to have communicated with Student One that way.

Respondent also testified about the pornographic images that were found on his school-issued computer after he resigned. He explained that he had a “Dropbox” folder, which allowed him to use a password to access various images and documents from storage space in “the cloud.” He asserted that the subjects of the pornographic images and videos kept in his Dropbox and found on his school computer were not minors. He admitted that he had control of his work-issued computer. He testified, however, that he never downloaded any of the sexual images to his work computer and, therefore, he did not believe they could have been stored on the computer’s hard drive. Respondent acknowledged that he had accessed his Dropbox folder from his work computer, but he stated that the folder contained a variety of non-pornographic content as well. He claimed that he never accessed any of the pornographic images or videos from his Dropbox folder on that computer.

Respondent stated that he was devastated that Student One and his family “connected the dots” of his relationship with Student One in the way that they did. He testified that he “never, ever would have put a student in a position to feel that way.” Nonetheless, he understood, in retrospect, how they viewed the situation, and he acknowledged, “I screwed up.” Respondent conceded that he may have blurred the lines and perhaps stopped seeing Student One as a high school student and saw him instead as being older and more mature than he was. He reiterated that it can be difficult, especially at the beginning of a teaching career, to keep those boundaries clear, particularly in the theater department. He stated that as a teacher, he must constantly remind himself that they are students.

According to Respondent, he has learned his lesson and this experience has caused him to rethink everything he has said. He testified that he cannot deny what he said in the past, but asserted that his comments were never intended to start a sexual relationship with, or allow him to see illicit photos of, Student One. Respondent agreed that he speaks without thinking sometimes, and acknowledged that he never should have responded to Student One’s text message on the night of November 24, 2012, when Respondent was in New York.

Respondent stated that teaching was his whole life and begged to be given another chance to teach. One of the greatest lessons we teach our children, he said, is that we make mistakes and that it is okay to make mistakes as long as we learn from them and do not repeat them. Respondent testified that he would do anything the Board required of him and asked fervently to be able to retain his teaching certificate.

D. Rick Ray McDaniel

Mr. McDaniel was the principal at McKinney Boyd during the time period relevant to this matter.²⁸ On November 26, 2012, Mr. McDaniel met with the parents of Student One, who was a senior at McKinney Boyd at that time. Student One's parents had read text messages between Student One and Respondent, and they were concerned that the timing and content of the messages were inappropriate. Mr. McDaniel met with Respondent the next day and confronted him about the text messages and the concerns raised by Student One's parents. According to Mr. McDaniel, Respondent put his head in his hands and asked what his options were. Mr. McDaniel told Respondent that the matter would be investigated fully, but Respondent elected to resign.

Mr. McDaniel testified that he does not believe texting with a student on a Saturday night is appropriate. He also asserted that the content of the messages was inappropriate, and stated that Respondent conceded as much during their meeting.

E. Jeff Gilliam

Mr. Gilliam is the Director of Technology Operations at McKinney Boyd and held that position during the time period relevant to this case. Someone from the Human Resources Department contacted Mr. Gilliam and asked him to review the school laptop computer that had been issued to Respondent, for any inappropriate content. Mr. Gilliam noted that the computer he was asked to review had an asset tag number on it that matched the tag number assigned to Respondent.

²⁸ He has since been promoted and currently works in the school district's central office.

To review the contents of the computer, Mr. Gilliam logged on with his local administrator's account and viewed the files on the computer. He testified that he discovered a Dropbox folder that contained numerous photos and videos showing homosexual activity. He explained that he ensures all computers are completely offline when he reviews them. Therefore, he testified, he was sure that all the files he observed on Respondent's school-issued computer were stored on the computer itself rather than being streamed from another location.

Before reporting his findings to Human Resources personnel, Mr. Gilliam made screen shots of the directory structure for the files at issue,²⁹ and copied the contents of the folder at issue onto a flash drive.³⁰

F. Vicki Elaine Kirkley

Ms. Kirkley, the Theater Director at McKinney Boyd, was Respondent's supervisor while he taught there. She testified that she was friends with Respondent and did community theater with him long before he became a teacher. Respondent also taught under her supervision while he was a student, prior to his assuming the Assistant Theater Director position at McKinney Boyd. She acknowledged that she had to counsel Respondent about various things during the time she worked with him, including the difference between the teacher-student relationship and friendships, and the difference between appropriate and inappropriate text messages. Ms. Kirkely testified that on one occasion she intervened to tell Respondent to stop an inappropriate conversation, although she was unable to remember the content of the conversation.

According to Ms. Kirkley, Student One sought Respondent out and it appeared that they had developed a relationship as friends. She saw them together in the mornings, at lunch, and in the theater. She also observed massages occur between them on a few occasions and recalled seeing Student One offer to give Respondent a massage, which Respondent accepted. Every time she saw behavior like that, Ms. Kirkley stated, she was quick to say that it needed to stop.

²⁹ TEA Ex. 9.

³⁰ TEA Ex. 6.

She further noted that no students gave her massages, and she did not see them giving each other massages in class or before theater productions.

Ms. Kirkley testified that she was unaware of the text message exchange between Student One and Respondent that took place at the end of November 2012, and she stated that she believes it is inappropriate for an educator to send a text message to a student asking for photos of the student.

Ms. Kirkley made a written statement about her experiences with Respondent at McKinney Boyd, but explained that when she wrote that statement, she had not been aware of the inappropriate text messages Respondent had sent to Student One or of the sexual images on his school-issued computer. When asked whether Respondent did a good job as a teacher other than those things, Ms. Kirkley stated that she was unable to separate them.

G. A.S.

A.S. is the mother of Student One. She testified that once Student One put all the pieces together regarding his relationship with Respondent, and they notified Principal McDaniel about what had occurred; Student One was “an emotional wreck.” She further testified that Student One has been engaged in counseling since the events at issue.

The situation was also really difficult for her as a parent, A.S. testified. She explained that she had always taught her son, from the time he was very young, to be aware of “stranger danger,” but it never occurred to her to teach him to question anything about his teachers. To the contrary, she taught him to obey authority and to respect and do what he is told by adults in positions of authority, particularly his teachers. A.S. expressed her relief that she was able to intervene before the situation between Respondent and Student One went any further than it did. But she was angry that Respondent pursued an inappropriate relationship with her son and stated that she believed the experience will remain with Student One and affect his ability to trust his relationships with others in the future.

H. Lisa Martin

Ms. Martin is currently employed as a high school theater teacher at McKinney North High School, and has been certified as a teacher for thirteen years. Respondent worked as a student teacher with Ms. Martin for one semester in the spring of 2011, while he was still in school. During that time, Ms. Martin was teaching theater at Johnson Middle School. Respondent observed Ms. Martin's theater classes and began to take some of them over. He also directed two shows with Ms. Martin's students. After that semester, Respondent did not work at the same school as Ms. Martin, but he continued to work in the same school district and worked with Ms. Martin on various projects.

Ms. Martin testified that she has not spoken to Respondent about what occurred at McKinney Boyd with Student One. She stated that she tried to meet with him after he resigned because she was concerned about him as a friend, but he would not meet with her. Ms. Martin was unaware of the contact between Respondent and Student One and also did not know that he had been counseled about boundaries with students. Ms. Martin noted, however, that she had never had problems with Respondent about following instructions when she was his mentor.

Ms. Martin was made aware of the content of the November 24, 2012 text messages between Respondent and Student One, and described them as being "very disappointing and inappropriate." She stated that it is absolutely inappropriate for a teacher to ask a student to "show me how you love me," and she made clear that she does not condone what Respondent did. Nonetheless, she explained, as far as she was aware, that was an isolated incident with one student and nothing physical actually occurred. Ms. Martin believed it was more of a fantasy text exchange where Respondent let joking get in the way of good judgment.

Additionally, Ms. Martin testified that the pornographic images found on Respondent's school-issued computer were inappropriate because teachers are "not supposed to do that" and he signed a contract saying he would not use his school computer that way. But as long as there was no child pornography at issue, she stated, the images on his computer have nothing to do with his fitness as a teacher.

Ms. Martin further testified that, based on her knowledge of Respondent and her friendship with him, she did not believe that he would have ever actually crossed the line into having sexual contact with Student One and nothing in her interactions or personal discussions with Respondent ever led her to believe that he would have been interested in something like that. She explained that Respondent jokes and talks without thinking sometimes, but she has always known him to be appropriately kind and giving with kids. Ms. Martin testified that she believes Respondent “let the lines get blurry and made some really bad decisions” as a novice teacher, but he is very soft-hearted and genuinely loves to help. She expressed her belief that this experience “shook [Respondent] to his core and melted his soul.” She explained that education has been Respondent’s “whole life” and that everything he has done every minute of every day has been for the benefit of kids and his passion for helping kids pursue theater. Ms. Martin testified that she did not believe Respondent ever would have intended to abuse that in any way. Ms. Martin opined that if there was actual physical contact between Respondent and a student, Respondent should never teach again.³¹ But if he did not act on his statements, she testified, he should be punished for his inappropriate behavior in some way, but should not lose his license.

IV. ANALYSIS

This is an unfortunate case. At the hearing, Respondent appeared to be genuinely passionate about his career as a theater teacher, and sincerely remorseful about many aspects of what occurred between him and Student One. Nonetheless, the evidence in the record establishes, by a preponderance, that: 1) Respondent’s conduct involved soliciting a romantic relationship with Student One; 2) Respondent’s conduct indicates that he is unworthy to instruct or supervise the youth of this state; and 3) Respondent’s behavior with respect to Student One violated multiple provisions of the Educator’s Code of Ethics. Accordingly, the ALJ finds that the evidence and applicable law indicate that Respondent’s teaching certificate should be permanently revoked.

³¹ Ostensibly, Ms. Martin meant sexual physical contact.

A. Soliciting or Engaging in a Romantic Relationship with Student One

Staff alleged that Respondent has violated the Code of Ethics and is subject to disciplinary sanctions under the applicable rules for engaging in or soliciting sexual conduct or a romantic relationship with Student One.³² If it is determined that Respondent engaged in such behavior, SBEC is required to permanently revoke his teaching certificate.³³ As discussed further below, the ALJ finds that Staff met its burden to establish this allegation.

There is no evidence in the record to support a finding that Respondent engaged in any actual sexual conduct with Student One. But the credible evidence establishes that Respondent more likely than not solicited a romantic relationship with Student One as defined by the applicable rules. Respondent did not deny having blurred the appropriate boundaries in his relationship with Student One, including making several inappropriate comments to him, in text messages and otherwise. Respondent claimed, however, that he was only joking when he said those things and that, despite what he said, he did not actually wish to see any illicit photos of Student One or seek Student One's love in any sexual or romantic way.

"Solicitation of a romantic relationship" is defined by the applicable rules as "deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature."³⁴ It is important to note that in order to fall under this definition, the acts committed by the educator must only be deliberately made and subject to reasonable interpretation as the solicitation of a romantic relationship. Therefore, it appears that the focus of this inquiry is not necessarily on the actual intent of an educator, but rather how the educator's conduct can reasonably be interpreted as a likely indicator of his actual intent. In this case, Respondent's repeated acts could be, and in fact were, reasonably interpreted by Student One (in retrospect) and his parents as Respondent's soliciting a romantic relationship with Student One.³⁵

³² 19 TAC § 249.15(b)(9)(L), 249.14(h)(1)(L).

³³ 19 TAC § 249.17(d)(1).

³⁴ 19 TAC § 249.3(50).

³⁵ There is no evidence in the record to suggest that any of the acts at issue were not deliberately made by Respondent.

Additionally, the definition of “solicitation of a romantic relationship” found in the applicable SBEC rules includes a list of acts, the commission of which may constitute *prima facie* evidence of the solicitation by an educator of a romantic relationship with a student.³⁶ If Respondent had engaged in only one of the listed acts, it may have been more difficult to determine whether he was soliciting a romantic relationship with Student One. But the evidence in the record establishes by a preponderance that Respondent engaged in several of the listed acts, indicating that it is more likely than not that he was soliciting a romantic relationship.

Among Respondent’s most disturbing and most revealing conduct is the text message exchange he had with Student One as documented in TEA Exhibit 12. It is undisputed that Respondent sent those text messages to Student One while Respondent was out of town in New York on Saturday night, November 24, and the afternoon of Sunday, November 25, 2012, and that none of those messages were related to Respondent’s duties as an educator or served an educational purpose. In the texts, Respondent told Student One several times that he wanted to see photos of Student One, and expressed sadness that Student One planned to send the photos to “D,” a girl whom Student One was interested in, instead of to Respondent. When Student One told Respondent that he had Student One’s love, Respondent replied, telling him to “show [Respondent],” and to give Respondent something to remember Student One with while Respondent was away. It is reasonable to interpret those messages alone as an attempt by Respondent to solicit a romantic or sexual relationship with Student One.

But, as noted above, the evidence establishes by a preponderance that Respondent engaged in additional conduct with Student One, which further substantiates Staff’s allegation that he solicited a romantic relationship with Student One, as that term is defined by SBEC rules.

Although Respondent denied making several of the statements attributed to him by Student One, the ALJ finds that Student One’s testimony about the events in dispute was more credible than Respondent’s. There is no evidence in the record to suggest that Student One had any motive to fabricate any allegations against Respondent. Nor did Student One’s testimony appear to be fabricated. Additionally, Student One’s demeanor at the hearing and the content of his assertions lent credibility to his testimony. If Student One had wished to be vindictive and

³⁶ 19 TAC § 249.3(50)(A) - (K).

harm Respondent by lying, he could have imputed much more egregious conduct, such as overtly sexual statements and acts, to Respondent, but he did not. Instead, Student One stated that all of the massages between him and Respondent were above the shoulders, and volunteered that Respondent never specifically referred to anything overtly sexual during their conversations. Student One also readily acknowledged that he initiated much of the contact between him and Respondent rather than alleging that Respondent pursued him. Student One did not appear to embellish the facts alleged against Respondent or minimize the facts regarding his own involvement with Respondent.

Moreover, Ms. Kirkley's testimony that massages were not appropriate or common in theater class, and her recollection of having to intervene and stop an inappropriate conversation between Respondent and Student One, corroborate Student One's version of the events where it differs from Respondent's. Also, many of Respondent's explanations do not ring true. For example, it does not make logical sense that Respondent would tell Student One he smelled good because Respondent had a keen sense of smell after having had "nose surgery." And there is simply no reason to believe, as Respondent suggested, that Student One actually had conversations with other students about being gay, but mistakenly thought those conversations had been with Respondent.

Therefore, the ALJ finds the preponderance of the credible evidence establishes that Respondent engaged in the following acts, which further substantiate a finding that Respondent solicited a romantic relationship with Student One:

- Respondent repeatedly asked Student One to see sexually-explicit photos of Student One that he believed Student One had on his phone, and encouraged Student One to send such photos to Respondent as proof of his love for Respondent;
- Respondent had conversations with Student One about Student One and others being gay;
- Respondent frequently gave and accepted shoulder rubs and hugs to/from Student One;
- Respondent engaged in inappropriate physical horseplay with Student One;
- Respondent repeatedly told Student One that he should break up with his girlfriend;

- Respondent told Student One that he wanted Student One to be his;
- Respondent told Student One that things would be different when Student One graduated;
- Respondent said he would be Student One's "sugar daddy" and Student One would not want for anything; and
- Respondent told Student One he smelled good.

Accordingly, the evidence establishes by a preponderance that Respondent solicited a romantic relationship with Student One because his conduct, as described above, could be reasonably interpreted as his soliciting such a relationship.

B. Unworthy to Instruct or Supervise Texas Youth

Staff has further alleged that Respondent is subject to discipline on the grounds that he is "unworthy to instruct or to supervise the youth of this state."³⁷ The SBEC rules define this phrase to mean the absence of those moral, mental, and psychological qualities that are required to enable an educator to render the service essential to the accomplishment of the goals and mission of the SBEC policy and chapter 247 of this title (relating to the Code of Ethics). A determination that a person is unworthy to instruct does not require a criminal conviction.³⁸ SBEC has recognized that the controlling purpose of the "unworthiness" inquiry is to exclude from the profession those teachers who are found to be "morally or mentally unfit."³⁹

In this case, it is undisputed that Student One sought out Respondent and initiated social and physical contact with him. However, Respondent, as the educator, bore the full responsibility for ensuring that appropriate student-teacher boundaries were maintained between them at all times. The preponderance of the evidence establishes that he failed to do so.

Although the evidence establishes that theater students tend to have more contact, and perhaps closer relationships, with their theater teachers than they do with their teachers in more academic classes, that distinction does not exempt a theater teacher from the requirement to maintain appropriate professional educator-student boundaries with their students at all times.

³⁷ 19 TAC § 249.15(b)(2).

³⁸ 19 TAC § 249.3(59).

³⁹ *Gomez v. Tex. Educ. Agency*, 354 S.W.3d 905, 915-916 (Tex. App.—Austin 2011, pet. denied).

Respondent conceded that he failed to maintain the appropriate boundaries with Student One, but explained that it can be very difficult for new teachers to have a clear sense of where those boundaries lie and how to properly maintain them. While Respondent's assertion may be true, it does nothing to change the outcome in this case. It may indeed be difficult for new teachers to maintain the required boundaries in practice, but it is nonetheless a requirement for all educators to do so.

Moreover, before he became certified to teach at McKinney Boyd, Respondent worked as a student teacher under the supervision and guidance of both Ms. Martin and Ms. Kirkley. During that time, he should have been able to observe and model the appropriate behavior as demonstrated by his mentors. It is also undisputed that after he began teaching at McKinney Boyd, Ms. Kirkely regularly provided Respondent with specific information about what types of conduct with students was appropriate and inappropriate, and how to maintain the appropriate professional boundaries as required. Nonetheless, despite having been properly trained regarding how to maintain appropriate student-teacher boundaries, Respondent was either unable or unwilling to maintain the appropriate boundaries with Student One.

In addition to the repeated give-and-take shoulder rub activity (that Ms. Kirkley credibly asserted was neither necessary nor appropriate even for theater students), Respondent repeatedly engaged in discussions with, and made comments to, Student One that were patently inappropriate and unrelated to Respondent's role as an educator. Ms. Kirkley even had to intervene to stop an inappropriate discussion between Respondent and Student One on at least one occasion.

Even if one were to assume that Respondent was only joking about wanting to see illicit photos of Student One and wanting Student One to show his love for Respondent as he claimed (despite the fact that the evidence in the record, as discussed above, indicates he was not joking), Respondent should have known that such comments could be reasonably interpreted by the student or his parents as his soliciting a romantic or sexual relationship with the student. And he should have known that his comments to Student One were inappropriate whether or not he was joking.

Respondent explained that he sometimes speaks without thinking, which is what causes him to get in trouble. And Ms. Martin agreed that Respondent's tendency to speak or joke without thinking can get in the way of his ability to exercise good judgment. That, however, is the crux of the problem here. Educators are entrusted by students and their families to hold positions of authority and serve as role models for students. At all times educators are required to think before speaking and acting to ensure that what they are about to say and do is appropriate as an educator. Respondent has both admitted and demonstrated that he has not been able to do that. He acknowledged that it is difficult for him to remember that his students are students, despite the fact that he waited to begin his teaching career until he had been out of high school for more than twenty years, making him considerably older than the students he taught. Nonetheless, Respondent conceded that he probably stopped perceiving Student One as a student and began thinking of him as someone older and more mature.

The fact that Respondent believed that it would be appropriate to interact with a student the way he did with Student One as long as he was only joking reflects a profound lack of judgment. And the fact that he engaged in this behavior despite the fact that he had been properly trained, and Ms. Kirkley had repeatedly cautioned him that similar behaviors were inappropriate, calls into question his ability to learn from this incident and act appropriately with students in the future.

Additionally, Respondent exercised terrible judgment when he elected to access a personal folder containing pornographic images and videos from his school-issued laptop computer. Even if he believed such information could not be downloaded to the computer's hard drive, good judgment warrants erring on the side of caution and refraining from opening any folders that could contain pornography on a computer belonging to one's employer, particularly when one's employer is a public school.

For the reasons stated above, the evidence establishes by a preponderance that Respondent is unworthy to instruct or supervise Texas youth as that concept is defined by the applicable law.

C. Code of Ethics

For the reasons discussed above, the ALJ finds that the evidence establishes, by a preponderance, that Respondent's behavior with Student One violated the following provisions of the Code of Ethics:

- Standard 1.10, which requires educators to be of good moral character and worthy to instruct or supervise the youth of the state;⁴⁰
- Standard 3.6, which prohibits educators from soliciting or engaging in sexual conduct or a romantic relationship with a student or minor;⁴¹
- Standard 3.8, which requires educators to maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard;⁴² and
- Standard 3.9, which requires educators to refrain from inappropriate communication with a student or minor, including but not limited to, electronic communication such as text messaging.⁴³

D. Appropriate Sanction

Because the evidence in the record from this contested case hearing is sufficient to establish that Respondent solicited a romantic relationship with Student One, SBEC is required to permanently revoke his teaching certificate.⁴⁴ Accordingly, the ALJ recommends permanent revocation of Respondent's teaching certificate without consideration of the factors set forth in 19 Texas Administrative Code § 249.17(c).

V. FINDINGS OF FACT

1. Gerald Owen Young (Respondent) graduated from Denton High School in 1990.
2. Respondent has held an educator certificate issued by the State Board for Educator Certification (SBEC) since 2011.

⁴⁰ 19 TAC § 247.2(1)(J).

⁴¹ 19 TAC § 247.2(3)(F).

⁴² 19 TAC § 247.2(3)(H).

⁴³ 19 TAC § 247.2(3)(I).

⁴⁴ 19 TAC § 249.17(d)(1).

3. While pursuing his degree in teaching, Respondent worked as a student teacher under the guidance and supervision of Lisa Martin and Vicki Kirkley, both of whom are certified teachers.
4. Respondent began working as a drama teacher at McKinney Boyd High School (McKinney Boyd) in August 2011.
5. Vicki Kirkley was the Theater Director and Respondent's supervisor during the time he worked at McKinney Boyd.
6. Ms. Kirkley regularly counseled Respondent about how to maintain appropriate student teacher boundaries as an educator in a variety of specific circumstances.
7. Student One was a male student in Respondent's theater class at McKinney Boyd during the spring of 2012.
8. During the fall of 2012, Student One did not take any classes taught by Respondent, but he and Respondent maintained regular contact and a close relationship.
9. Student One sought out Respondent and often skipped other classes to spend time with him.
10. Many of Respondent's conversations with Student One had sexual overtones, although Respondent never specifically referred to any sexual acts or conduct.
11. Respondent told Student One he would be Student One's "sugar daddy."
12. Respondent told Student One that he would ask far less of Student One than he would get in return.
13. Respondent repeatedly told Student One that he (Student One) was gay and engaged in conversations with Student One about Student One's sexual orientation.
14. Respondent suggested to Student One that he desired a romantic relationship after Student One graduated.
15. Respondent told Student One that he should break up with his girlfriend to pave the way for Student One and Respondent to be together.
16. Respondent told Student One he smelled good.
17. On at least one occasion, Ms. Kirkley intervened to stop an inappropriate conversation she heard taking place between Respondent and Student One.
18. Respondent engaged in inappropriate physical horseplay with Student One.
19. Respondent and Student One regularly hugged each other.
20. Respondent and Student One massaged each other's shoulders.

21. Shoulder massages were not a necessary or appropriate part of theater class.
22. Respondent engaged in excessive touching with Student One.
23. Respondent repeatedly asked to see illicit photos of Student One that Respondent believed were stored on Student One's cell phone.
24. Respondent repeatedly encouraged Student One to transmit sexually suggestive photographs of himself to Respondent.
25. Respondent sent multiple text messages to Student One on the night of Saturday, November 24, 2012, while Respondent was out of town in New York.
26. Respondent sent additional text messages to Student One on Sunday, November 25, 2012, while Respondent was still in New York.
27. Respondent sent text messages to Student One asking to see illicit photos of Student One that he believed were stored on Student One's phone.
28. Respondent sent a text message to Student One telling him to show Respondent his love.
29. Respondent sent a text message to Student One telling him to give him something to remember Student One with while Respondent was away.
30. None of the text messages Respondent sent to Student One had any educational purpose or relationship to Respondent's role as an educator.
31. Student One's parents discovered the text messages and reported them to the school principal.
32. The principal of McKinney Boyd met with Respondent on November 27, 2012, and confronted him about the text messages sent between him and Student One.
33. Respondent resigned his employment at McKinney Boyd on November 27, 2012.
34. After Respondent resigned, multiple pornographic images and videos, including at least one video of Respondent performing a sexual act, were found on the hard drive of Respondent's school-issued laptop computer.
35. Respondent made multiple comments to Student One that were inappropriate even if made in jest.
36. Respondent's behavior and comments to Student One were reasonably construed by Student One and his parents as his soliciting a sexual and/or romantic relationship with Student One.
37. Respondent's behavior demonstrates that he is unwilling or unable to maintain the appropriate student-teacher boundaries with his students.

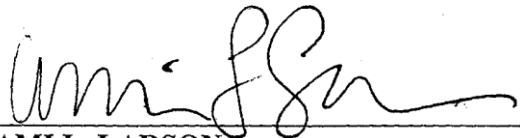
38. Respondent exercised poor judgment in his conduct with Student One and in his use of his school-issued computer.
39. Respondent was properly trained and instructed about how to maintain professional boundaries with students as an educator, but failed to do so.
40. On June 18, 2013, Staff of the Texas Education Agency (TEA), Educator Certification Division, acting as legal counsel for SBEC, sent an Original Petition to Respondent, notifying him of its allegations against him.
41. Respondent timely requested a hearing to contest the allegations contained in the Original Petition.
42. On July 26, 2013, Staff sent a notice of hearing to Respondent.
43. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
44. A contested case hearing was held on February 10, 2014, before Administrative Law Judge (ALJ) Ami L. Larson at the State Office of Administrative Hearings (SOAH) in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Richard J. Ybarra, attorney. Respondent appeared and was represented by attorney Kevin Lungwitz. The record closed at the conclusion of the hearing that day.

VI. CONCLUSIONS OF LAW

1. SBEC has jurisdiction over this matter pursuant to Texas Education Code §§ 21.031, and 21.041 and 19 Texas Administrative Code (TAC) § 249.18.
2. SOAH has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Texas Government Code ch. 2003.
3. Proper and timely notice of the hearing was provided to Respondent, pursuant to Texas Government Code §§ 2001.051 and 2001.052.
4. The SBEC may take disciplinary action against an educator who has violated a provision of the Educators' Code of Ethics. 19 TAC § 249.15(b)(3).
5. The SBEC may take disciplinary action against an educator who is unworthy to instruct or to supervise the youth of this state. 19 TAC § 249.15(b)(2).
6. Respondent's conduct indicates that he is a person who is unworthy to instruct or supervise the youth of this state. 19 TAC § 249.15(b)(2), 19 TAC § 247.2(1)(J).

7. SBEC is required to permanently revoke the certificate of a teacher if, after a contested case hearing, it is determined that the educator solicited a romantic relationship with a student. 19 TAC § 249.17(d)(1).
8. Respondent's conduct indicates that he solicited a romantic relationship with Student One. 19 TAC § 249.3(50).
9. Respondent's conduct violated Standards 1.10, 3.6, 3.8, and 3.9 of the Educators' Code of Ethics. 19 TAC § 249.2(3).
10. The above-stated findings of fact and conclusions of law support the ALJ's recommendation that Respondent's teacher certification be revoked.

SIGNED March 26, 2014.

A handwritten signature in black ink, appearing to read 'Ami L. Larson', written over a horizontal line.

AMI L. LARSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS